

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN SENATE JANUARY 17, 2006

AMENDED IN SENATE JANUARY 4, 2006

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 924

Introduced by Senator Speier

February 22, 2005

An act to amend Sections 94832 and 94925 of the Education Code, relating to driving schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 924, as amended, Speier. Driving schools: motortrucks: Class A commercial driver's licenses.

(1) Existing law, the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. By its own terms, the act becomes inoperative on July 1, 2007, and is repealed as of January 1, 2008.

An existing provision of the act, among other things, governs the operations and conduct of private postsecondary and vocational institutions relating to advertising activities directed at, recruitment of,

and compensation for, potential students. Any person or business entity that willfully violates those provisions is guilty of a crime.

This bill would prohibit an institution or representative of an institution, as specified, from reducing the wages of a trainee in order to recover the cost of training unless specified conditions are met. The bill would also prohibit the institution from advertising its training as free if a trainee is required to enter into specified agreements in order to receive the training. A willful violation of these provisions would be a crime, and thus the bill would create a state-mandated local program.

(2) An existing provision of the act prohibits any person from owning or operating a school, or giving instruction, for the driving of motortrucks with 3 or more axles and an unladen weight of more than 6,000 pounds unless specified conditions are met.

This bill would add, to that list of conditions, requirements relating to student instruction, and would require the school to communicate to the students the cost of training, including all obligations relating to employment. The bill would also prohibit any person from owning or operating a school, or giving instruction, intended to lead to the issuance of a Class A commercial driver's license, unless all of the conditions applicable to a school, or instruction, for the driving of motortrucks with 3 or more axles and an unladen weight of more than 6,000 pounds, are met, as well as specified requirements relating to ~~behind-the-wheel instruction, the amount of instruction allowed within prescribed periods of time~~ *curriculum content*, the assessment of a student's competency, the maintenance of specified student documentation, and the provision of a rate schedule.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 94832 of the Education Code is
2 amended to read:

1 94832. (a) No institution or representative of an institution
2 shall make or cause to be made any statement that is in any
3 manner untrue or misleading, either by actual statement,
4 omission, or intimation.

5 (b) No institution or representative of an institution shall
6 engage in any false, deceptive, misleading, or unfair act in
7 connection with any matter, including the institution's
8 advertising and promotion, the recruitment of students for
9 enrollment in the institution, the offer or sale of a program of
10 instruction, course length, course credits, the withholding of
11 equipment, educational materials, or loan or grant funds from a
12 student, training and instruction, the collection of payments, or
13 job placement.

14 (c) An institution is liable in any civil or administrative action
15 or proceeding for any violation of this article committed by a
16 representative of the institution. An institution is liable in a
17 criminal action for violations of this article committed by a
18 representative of the institution to the extent permitted by law.

19 (d) (1) No institution or representative of an institution shall
20 induce a person to enter into an agreement for a program of
21 instruction by offering to compensate that person to act as the
22 institution's representative in the solicitation, referral, or
23 recruitment of others for enrollment in the institution.

24 (2) No institution or representative of an institution shall offer
25 to pay or pay any consideration to a student or prospective
26 student to act as a representative of the institution with regard to
27 the solicitation, referral, or recruitment of any person for
28 enrollment in the institution in either of the following:

29 (A) During the 60-day period following the date on which the
30 student began the program.

31 (B) At any subsequent time, if the student has not maintained
32 satisfactory academic progress in acquiring the necessary level of
33 education, training, skill, and experience to obtain employment in
34 the occupation or job title to which the program is represented to
35 lead. The institution shall have the burden of proof to establish
36 that the student has maintained satisfactory academic progress.

37 (e) No institution shall compensate a representative involved
38 in recruitment, enrollment, admissions, student attendance, or
39 sales of equipment to students on the basis of a commission,

1 commission draw, bonus, quota, or other similar method except
2 as follows:

3 (1) If the program of instruction is scheduled to be completed
4 in 90 days or less, the institution shall pay compensation related
5 to a particular student only if that student completes the course.

6 (2) If the program of instruction is scheduled to be completed
7 in more than 90 days, the institution shall pay compensation
8 related to a particular student as follows:

9 (A) No compensation shall be paid for at least 90 days after
10 that student has begun the program.

11 (B) Up to one-half of the compensation may be paid before the
12 student completes the program only if the student has made
13 satisfactory academic progress, documented by the institution in
14 the student's file, for more than 90 days.

15 (C) The remainder of the compensation shall be paid only after
16 the student's completion of the program. This subdivision shall
17 not prevent the payment at any time of an hourly, weekly,
18 monthly, or annual wage or salary.

19 (f) No institution or representative of an institution shall pay
20 any consideration to a person to induce that person to sign an
21 agreement for a program of instruction.

22 (g) No institution shall use a misleading name in any manner
23 implying any of the following:

24 (1) The institution is affiliated with any governmental agency,
25 public or private corporation, agency, or association.

26 (2) The institution is a public institution.

27 (3) The institution grants degrees.

28 (h) (1) No institution or any representative of an institution
29 shall in any manner make any untrue or misleading change in, or
30 untrue or misleading statement related to, any test score, grade,
31 record of grades, attendance record, record indicating student
32 completion or employment, financial information, including any
33 of the following:

34 (A) Any financial report required to be filed pursuant to
35 Sections 94804 to 94808, inclusive.

36 (B) Any information or record relating to the student's
37 eligibility for financial assistance or attendance at the institution.

38 (C) Any other record or document required by this chapter or
39 by the bureau.

1 (2) No institution or any representative of an institution shall
2 falsify, destroy, or conceal any record or other item described in
3 paragraph (1) while that record or item is required to be
4 maintained by this chapter or by the bureau.

5 (i) No institution or representative of an institution shall use
6 the terms “approval,” “approved,” “approval to operate,” or
7 “approved to operate” without stating clearly and conspicuously
8 that approval to operate means compliance with minimum state
9 standards and does not imply any endorsement or
10 recommendation by the state or by the bureau. If the bureau has
11 granted an institution approval to operate, the institution or its
12 representative may indicate that the institution is “licensed” or
13 “licensed to operate” but may not state or imply any of the
14 following:

15 (1) The institution or its programs of instruction are endorsed
16 or recommended by the state or by the bureau.

17 (2) The bureau’s grant to the institution of approval to operate
18 indicates that the institution exceeds minimum state standards.

19 (3) The bureau or the state endorses or recommends the
20 institution.

21 (j) No institution offering programs or courses of instruction
22 represented to lead to occupations or job titles requiring licensure
23 shall enter into an agreement for a course of instruction with a
24 person whom the institution knows or, by the exercise of
25 reasonable care, should know, would be ineligible to obtain
26 licensure in the occupation or job title to which the course of
27 instruction is represented to lead, at the time of the scheduled
28 date of course completion, for reasons such as age, physical
29 characteristics, or relevant past criminal conviction.

30 (k) No institution shall divide or structure a program of
31 instruction or educational service to avoid the application of any
32 provision of this chapter.

33 (l) No institution or representative of an institution shall direct
34 a representative to perform any unlawful act, to refrain from
35 complaining or reporting unlawful conduct to the bureau or
36 another government agency, or to engage in any unfair act to
37 persuade a student not to complain to the bureau or another
38 government agency.

(m) No institution or representative of an institution approved to operate a school or give instruction pursuant to subdivision (b) of Section 94925 shall do either of the following:

(1) Reduce the wages of a trainee in order to recover the cost of training unless the trainee is advised of the payment arrangement before accepting employment.

(2) Advertise its training as free or no cost if a trainee is required to enter into an employment arrangement or lease or rent services or equipment, including a motortruck, as a condition of receiving the training.

SEC. 2. Section 94925 of the Education Code is amended to read:

94925. (a) No person shall own or operate a school, or give instruction, for the driving of motortrucks of three or more axles that are more than 6,000 pounds unladen weight, unless all of the following conditions are met:

(1) The school or instruction has been approved by the bureau.

(2) The school, at the time of application and thereafter, maintains both of the following:

(A) Proof of compliance with liability insurance requirements that are the same as those established by the Department of Motor Vehicles for a driving school owner, pursuant to Section 11103 of the Vehicle Code, unless the bureau deems it necessary to establish a higher level of insurance coverage.

(B) A satisfactory safety rating by the Department of the California Highway Patrol is established pursuant to Division 14.8 (commencing with Section 34500) of the Vehicle Code.

(3) The school, at all times, shall maintain the vehicles used in driver training in safe mechanical condition. The school shall be enrolled and in compliance with the Biennial Inspection of Terminals Program pursuant to subdivision (e) of Section 34501.12 of the Vehicle Code.

(4) The driving instructors meet the requirements set forth in Section 11104 of the Vehicle Code.

(5) Any other terms and conditions required by the bureau to protect the public safety or to meet the requirements of this chapter.

(b) No person shall own or operate a school, ~~which gives instruction~~ or give instruction, intended to lead to the issuance of

1 a Class A commercial driver's license, unless all of the following
2 conditions are met:

3 (1) The school meets the requirements of subdivision (a).

4 (2) At the time of application and thereafter, the school
5 maintains a Class A commercial driver's license curriculum that
6 ~~includes a minimum of 160 hours of classroom, laboratory,~~
7 ~~range, and on-the-road time, including at least 40 hours of~~
8 ~~behind-the-wheel instruction. As used in this paragraph,~~
9 ~~"behind-the-wheel instruction" means time spent by the student~~
10 ~~physically operating a motortruck on a public or private road or~~
11 ~~range. For the purposes of this paragraph, each hour of~~
12 ~~instruction may include up to 10 minutes of noninstruction time~~
13 ~~for student breaks. The curriculum includes all of the following:~~

14 (A) The skills or knowledge necessary to allow a student to
15 demonstrate competency in the following subjects:

16 (i) Basic operation, including control systems; vehicle
17 inspections; basic vehicle control; shifting, turns, and backing;
18 coupling and uncoupling; and highway driving.

19 (ii) Safe operating practices, including visual search; vehicle
20 communication; speed management; and space management.

21 (iii) Advanced operating practices, including extreme driving
22 conditions, and night operations; hazard perception; emergency
23 maneuvers; and skid prevention and recovery.

24 (iv) Vehicle systems and reporting malfunctions, including air
25 brakes; engine operation; and brake inspection.

26 (v) Nonvehicular activities, including handling and
27 documenting cargo; basic hazard material handling; hours of
28 service requirements; accident procedures; trip planning;
29 communication skills; and fatigue management.

30 (B) The form and manner in which the skills and knowledge
31 will be taught and assessed.

32 (3) The school assesses student competency for each of the
33 knowledge and skill requirements set forth in subparagraph (A)
34 of paragraph (2) either by observing the student performing the
35 skill and assessing the student's competency level, or by
36 administering a written knowledge test to the student.

37 (4) The school maintains the following documentation for
38 each student:

39 (A) The date each assessment was administered.

40 (B) The name of the instructor or evaluator.

- 1 (C) The score or grade of each assessment.
- 2 (D) The minimal passing score for each assessment.
- 3 (E) The competencies and performance standards evaluated in
- 4 each assessment.
- 5 (5) The school provides each prospective student with a clear
- 6 and unambiguous rate schedule documenting the cost of the
- 7 training, including all obligations relating to employment.
- 8 SEC. 3. No reimbursement is required by this act pursuant to
- 9 Section 6 of Article XIII B of the California Constitution because
- 10 the only costs that may be incurred by a local agency or school
- 11 district will be incurred because this act creates a new crime or
- 12 infraction, eliminates a crime or infraction, or changes the
- 13 penalty for a crime or infraction, within the meaning of Section
- 14 17556 of the Government Code, or changes the definition of a
- 15 crime within the meaning of Section 6 of Article XIII B of the
- 16 California Constitution.